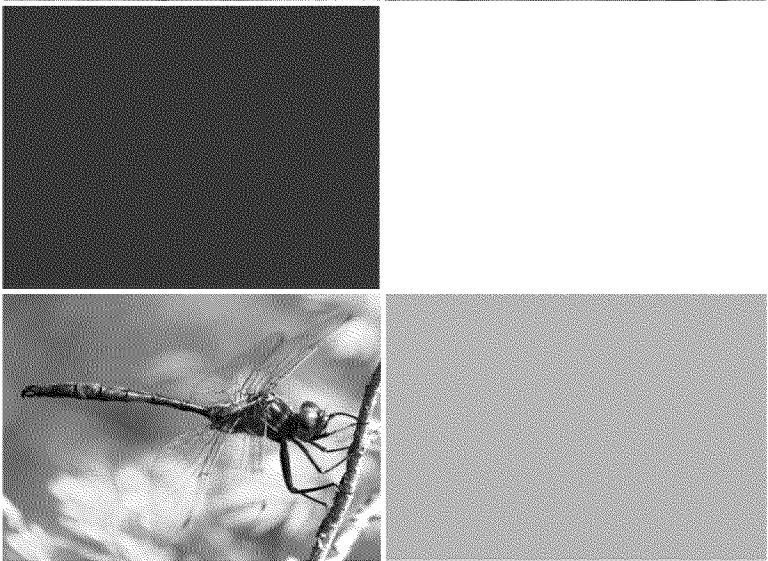


# National Pesticide Consultations: An Overview

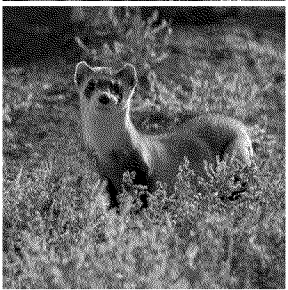
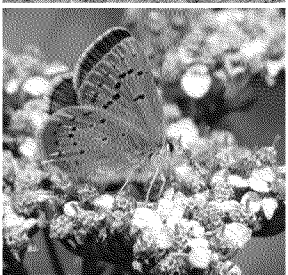
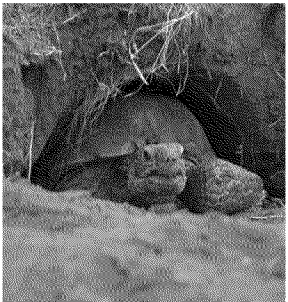
May 15, 2017





# Pesticide Registration Review

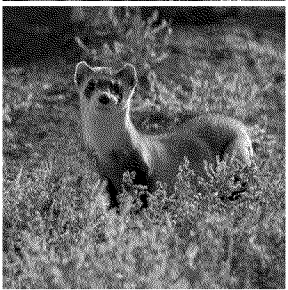
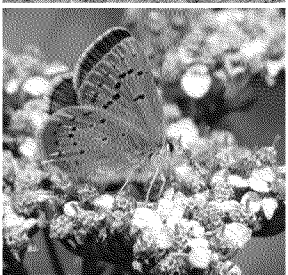
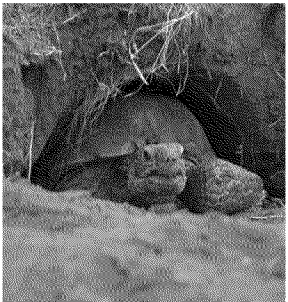
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires registration of pesticide products
- FIFRA requires review of registered pesticides every 15 years
- Section 7 of the ESA requires all federal agencies ensure – in consultation with FWS – actions they authorize are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat





# History of FIFRA ESA Section 7 Consultations

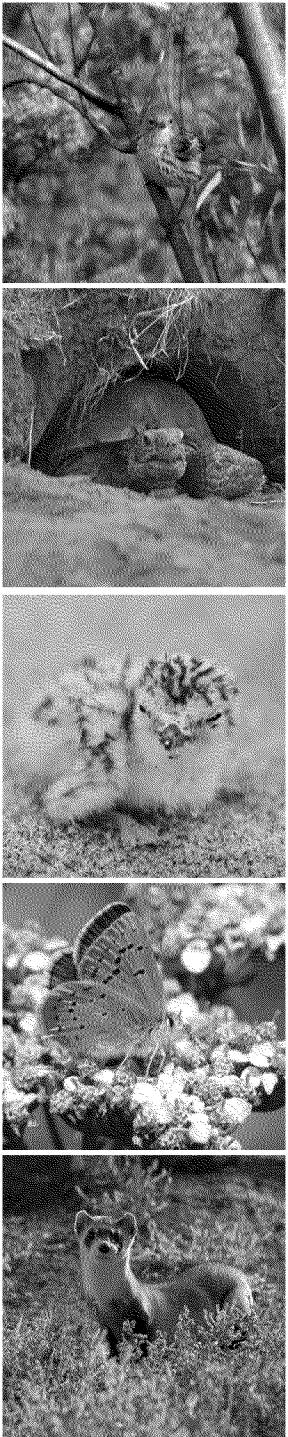
- 1970s: case-by-case consultations began  
(Endrin, Creosote, Compound 1080, Strychnine)
- 1980s: crop-based “cluster consultations”  
(Corn, Sorghum, Cotton, Forestry uses, Mosquitos)
- 1990s: consultation on 31 pesticides  
(Greatest risk to aquatic/terrestrial species)
- 1996 – 2013: agencies unable to agree on risk assessment approach





# Pesticides Litigation - EPA

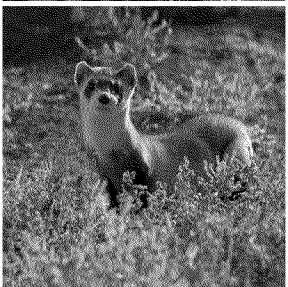
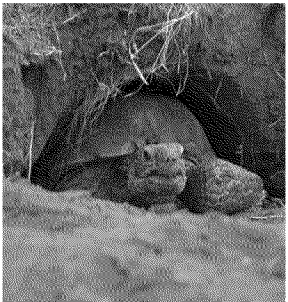
- 2002 – *CBD v. Johnson*: CBD filed suit against EPA for failure to consult on the effects of 66 pesticides on the California red-legged frog
  - Settlement in 2006 – EPA agreed to make effect determinations on 66 pesticides
  - Oct 2007 – Oct 2008 EPA requested initiation of formal consultation on effects of > 30 pesticides on red-legged frog
  - Jan 2009 – FWS informed EPA insufficient information to consult
- 2007 – *CBD v. EPA*: CBD filed suit to compel EPA to initiate consultation on the effects of 75 pesticides on 11 listed species in San Francisco Bay area
  - Settlement in 2010 – EPA complete effect determinations on the 75 pesticides and initiate ESA consultation on those that may affect listed species
  - July 2013 EPA completed effects determinations for 69 of the 75
  - Settlement Amended 2015 – Effect determinations on 4 pesticides (atrazine, simazine, propazine and glyphosate) for all listed species





# Pesticides Litigation - FWS

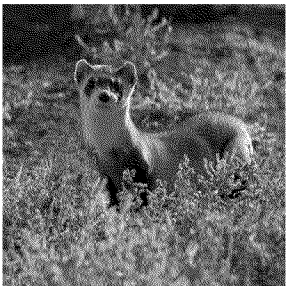
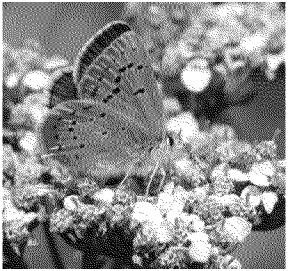
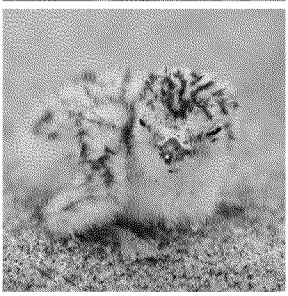
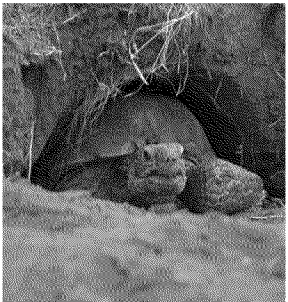
- 2011 – *CBD v. FWS*: CBD filed suit against FWS and EPA for failure to consult on the effects of 64 pesticides on red-legged frog
  - Settlement Nov 2013 - FWS and EPA agreed to complete consultation on effects of 7 pesticides on red-legged frog within 3 years
  - Settlement Amended July 2014 – Nationwide consultations on 5 pesticides (3 OPPs, 2 Carbamates)
- 2015 – *CBD v. FWS*: CBD filed a lawsuit against FWS for failure to complete consultation on effects of 2 pesticides on delta smelt and 1 pesticide on Alameda whipsnake
  - Settlement Feb 2016 – Nationwide consultations on 4 pesticides from EPA's 2015 settlement





# Settlement Agreement Summary

- December 2017 – chlorpyrifos, diazinon and malithion
- December 2018 – carbaryl and methomyl
- December 2022 – atrazine, simazine, propazine and glyphosate







# National Academy of Sciences

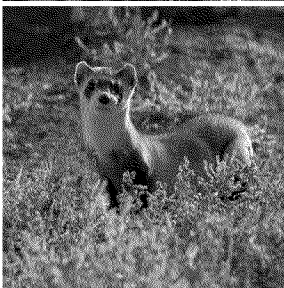
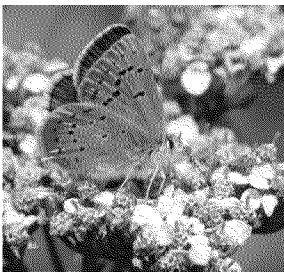
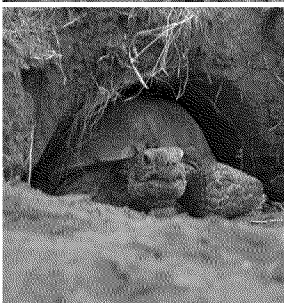
## *Assessing the Risks to Endangered and Threatened Species from Pesticides*

- EPA, FWS, NMFS, and USDA asked National Academy of Sciences to provide recommendations for a path forward
- NAS report recommendations:
  - Common approach
  - Best available data
  - Uncertainty
  - Exposure analysis
  - Effects analysis
  - Risk characterization



# 3-Step Process

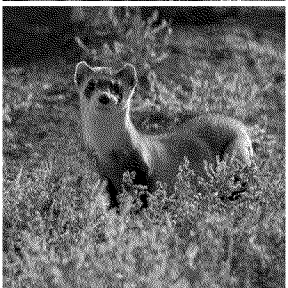
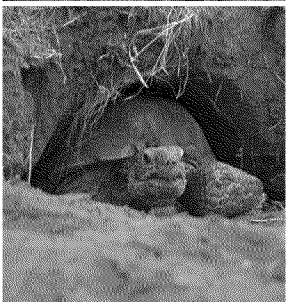
- NAS suggested using a phased, iterative process that incorporates stakeholder engagement throughout
  - Phase 1: May affect/no affect
  - Phase 2: Likely to adversely affect/not likely to adversely affect (Biological Evaluations by EPA)
  - Phase 3: Jeopardy/no jeopardy (Biological Opinions by FWS and NMFS)
- All agencies agreed to pilot the 9 pesticides through December 2022
- All agencies recognize this process is currently not sustainable, working together to streamline





# Biological Evaluations Steps 1 & 2

- EPA, in conjunction with FWS, NMFS, and USDA completes BEs:
  - Chlorpyrifos, diazinon, and malathion
    - Final BEs published January 2017
  - Carbaryl and methomyl
    - Final BEs due December 2017
  - Atrazine, simazine, propazine, and glyphosate
    - Final BEs due December 2020

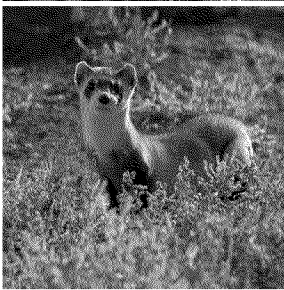
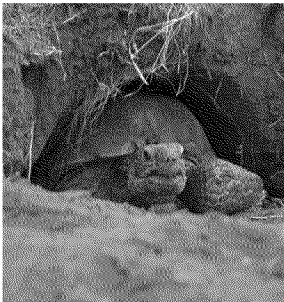




# Biological Opinions

## Step 3

- FWS and NMFS in consultation with EPA and USDA complete BOs:
  - Chlorpyrifos, diazinon, and malathion (OPPs)
    - Final BOs due December 2017
  - Carbaryl and methomyl
    - Final BOs due December 2018
  - Atrazine, simazine, propazine, and glyphosate
    - Final BOs due December 2022







# OPP Consultations

- Chlorpyrifos, diazinon, and malathion
  - Widely used insecticides
  - Highly toxic nerve agents

- Preliminary Draft BO May 2017

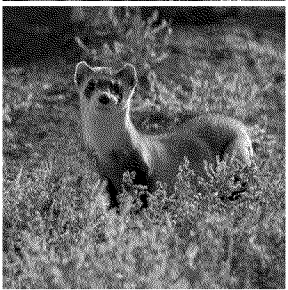
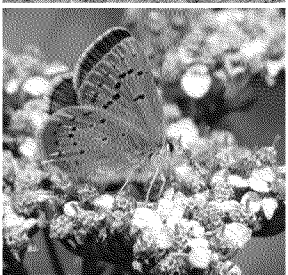
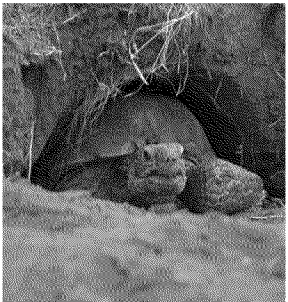
**b5-DPP**

- RPAs – buffers, equipment, no-spray zone/time.
  - Brief Leadership before release to EPA
- Draft BOs to EPA June 2017
  - 60-day comment period



# Interaction with Congress

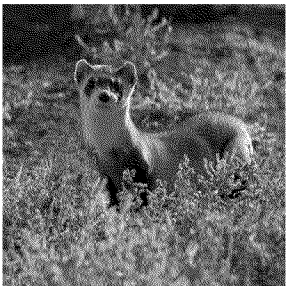
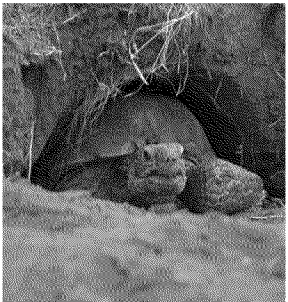
- Provided numerous briefings for Senate Agriculture Committee and Staff
- Reports to Congress on Endangered Species Act Implementation in Pesticide Evaluation Program
  - Update on implementation of NAS recommendations and stakeholder engagement
  - Written by EPA, FWS, NMFS, and USDA
  - Interim Report provided November 2014
  - Final Report pending clearance





# Industry Letters

- Dow AgroSciences, Makhteshim Agan of North America, and FMC Corporation
  - Asking EPA to withdraw BEs and FWS/NMFS to return BEs to EPA
- Crop Life America
  - Support for Dow et al. letter
- FWS Recommendations
  - Complete OPP BOs unless EPA withdraws BEs
  - Continue nationwide consultations on the 9 pilot pesticides covered by settlement agreements
  - Continue to streamline consultation process





# Next Steps

- Clear Final Report to Congress
- Resolve response to Industry letters
- Brief on preliminary draft OPP BOs
- Transmit draft BOs to EPA for release
- Work with registrants and pesticide users on RPAs and RPMs
- Implement lessons learned for next BEs/BOs

